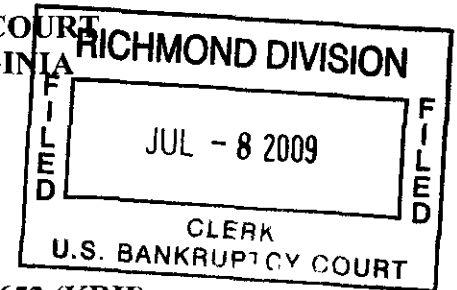


IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION



In re

CIRCUIT CITY STORES, INC., et al.,

Debtors.

Chapter 11

Case No. 08-35653 (KRH)

(Jointly Administered)

**PRELIMINARY RESPONSE OF 1251 FOURTH STREET INVESTORS LLC
AND BEVERLY GEMINI INVESTMENTS, LLC TO DEBTORS' TWENTY-
SECOND OMNIBUS OBJECTION TO CLAIMS (DISALLOWANCE OF
CERTAIN CLAIMS FILED AGAINST THE WRONG DEBTOR)**

1251 Fourth Street Investors LLC and Beverly Gemini Investments, LLC (collectively, the "Landlord") hereby files its Preliminary Response ("Response") to the Debtors' Twenty-Second Omnibus Objection to Claims (Disallowance of Certain Claims Filed against the Wrong Debtor) (the "Claim Objection").

PRELIMINARY RESPONSE

The Landlord hereby responds to the Debtors' Claim Objection on the following grounds. Briefly stated, the Claim Objection seeks to *disallow* Landlord's Claim Number 12458 filed in the Circuit City Stores West Coast, Inc. case (08-35654) in the amount of \$2,234,942.29 and to *allow* Landlord's Claim Number 9270 filed in the Circuit City Stores, Inc. case (08-35653) in the amount of \$2,234,942.29, on the grounds that Landlord's Claim Number 12458 was filed against the wrong Debtor.

The Landlord agrees that said claims are duplicative but does not agree that any of the claims were filed against the wrong Debtor or that said Debtor(s) does not have any possible liability for such Claim. In fact, the Landlord filed the same claim in each of the two cases for a reason. Specifically, the Landlord filed its claim in the Circuit City Stores West Coast, Inc. case based on the grounds that said debtor entity was the *lessee* under the subject commercial real property lease entered into by and between the Landlord and Circuit City Stores West Coast, Inc.

Similarly, the Landlord filed its claim in the Circuit City Stores, Inc. case based on the grounds that said debtor entity was the *guarantor* of Circuit City Stores West Coast, Inc.'s obligations under the subject commercial real property lease. Both the

subject lease agreement and the guaranty agreement are exhibits to each of the Landlord's claims and are intentionally not attached hereto.

While the Landlord acknowledges the right to payment on only one of these two claims, the Landlord does not consent to the withdrawal of either of its two claims without being provided appropriate evidence and confirmation as to which debtor entity is or shall otherwise be responsible for making distributions to creditors (and specifically, the Landlord) in this jointly administered case.

Accordingly, the Landlord objects to the relief sought by the Debtors' Claim Objection as it will *prejudice the Landlord's rights to distribution based upon its lease rights as well as its separate guaranty agreement.*

Further, the Landlord hereby reserves all rights to supplement this Response at a later date, to the extent so necessary.

The Landlord has filed this brief Response in lieu of a formal pleading in accordance with the Debtors' authorization provided to counsel for the Landlord on June 26, 2009, a true and correct copy of which is attached as Exhibit "1" to the Affidavit of Elan S. Levey.

The Landlord further seeks all other appropriate relief.

DATED: July 7, 2009

LEVINSON, ARSHONSKY & KURTZ, LLP

/s/ Elan S. Levey
ELAN S. LEVEY
(California State Bar No. 174843)
Levinson Arshonsky & Kurtz, LLP
15303 Ventura Blvd., Suite 1650
Sherman Oaks, CA 91403
Telephone: (818) 382-3434
Facsimile: (818) 382-3433
Email: elevey@laklawyers.com

**AFFIDAVIT OF ELAN S. LEVEY IN SUPPORT OF PRELIMINARY RESPONSE
OF 1251 FOURTH STREET INVESTORS LLC AND BEVERLY GEMINI
INVESTMENTS, LLC TO DEBTORS' TWENTY-SECOND OMNIBUS
OBJECTION TO CLAIMS (DISALLOWANCE OF CERTAIN CLAIMS FILED
AGAINST THE WRONG DEBTOR)**

I, Elan S. Levey, do hereby declare as follows:

1. I am over the age of 18 years and competent to testify. I have personal knowledge of the facts contained in this Affidavit, and they are true and correct to the best of my knowledge and belief.

2. I am counsel for 1251 Fourth Street Investors LLC and Beverly Gemini Investments, LLC (collectively, the "Landlord"). This Affidavit is in support of the Landlords' Preliminary Response ("Response") to the Debtors' Twenty-Second Omnibus Objection to Claims (Disallowance Of Certain Claims Filed against the Wrong Debtor) (the "Objection").

3. Attached hereto as Exhibit "1" is a true and correct copy of email correspondence from Kelly Lazaroff, counsel for the Debtors, that I received instructing and authorizing the Landlord to file the Preliminary Response in the form as set forth directly above.

4. On behalf of the Landlord, I hereby reserve all rights to supplement this Response at a later date, to the extent so necessary.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 7th day of July 2009 at Sherman Oaks, California.

/s/ Elan S. Levey
ELAN S. LEVEY

EXHIBIT I

Elan Levey

From: Lazaroff, Kelly A [Kelly.Lazaroff@skadden.com]

Sent: Tuesday, June 30, 2009 10:28 AM

To: Elan Levey

Subject: RE: Circuit City

Yes, this will work for all responses.

From: Elan Levey [mailto:ELevey@laklawyers.com]

Sent: Tuesday, June 30, 2009 12:16 PM

To: Lazaroff, Kelly A (CHI)

Subject: RE: Circuit City

Hi Kelly,

Is the procedure you outlined below applicable to *all* responses to the Debtors' various omnibus claim objections? I just received another identical objection for disallowance of claims filed against the wrong debtor and I plan to respond like I did before.

Please confirm.

Thank you very much.

Elan S. Levey

LA&K

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From: Lazaroff, Kelly A [mailto:Kelly.Lazaroff@skadden.com]

Sent: Friday, June 26, 2009 10:24 AM

To: Elan Levey

Subject: RE: Circuit City

One thing I neglected to mention - you may receive a Notice of Deficient filing from the Clerk. They do that pretty automatically and we haven't figured out a way to stop it yet but you need not worry or do anything about it. The Debtors have agreed to this procedure and will in no way

7/6/2009

make an issue of any "filing deficiencies."

From: Lazaroff, Kelly A (CHI)
Sent: Friday, June 26, 2009 12:21 PM
To: 'Elan Levey'
Subject: RE: Circuit City

Elan,

As we discussed, you may file a short preliminary "letter" response to the Debtors' 10th omnibus objection to duplicative claims. Please include the following:

- Titled as a "preliminary response"
- Creditor's Name
- Creditor's contact information (including phone number, address, and email)
- Claim Number
- Objection being responded to
- Noting that creditor objects to relief requested
- Reserving right to supplement response at a later date

The creditor need not make any legal argument, etc., in the preliminary response, as any such substantive response will be reserved for a later date by agreement of the Debtors. We hope to resolve these responses consensually prior to the next hearing date and I will let you know if there is anything more you need to do on your end.

Please let me know if you have any other further concerns.

Kelly

Kelly A. Lazaroff
Associate, Corporate Restructuring
Skadden, Arps, Slate, Meagher & Flom LLP
155 North Wacker Drive | Chicago | Illinois | 60606-1720
T: 312.407.0617 | F: 312.827.9475
kelly.lazaroff@skadden.com

From: Elan Levey [mailto:ELevey@laklawyers.com]
Sent: Friday, June 26, 2009 12:10 PM
To: Lazaroff, Kelly A (CHI)
Subject: Circuit City

Thanks for your help.

Elan S. Levey

LA&K
Levinson Arshonsky & Kurtz, LLP
15303 Ventura Blvd., Suite 1650
Sherman Oaks, CA 91403
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Facsimile: (818) 382-3433
elevey@laklawyers.com



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Further information about the firm, a list of the Partners and their professional qualifications will be provided upon request.

7/6/2009

CERTIFICATE OF SERVICE

I, Linda Greenstein, do hereby certify that a true and correct copy of the document: ***PRELIMINARY RESPONSE OF 1251 FOURTH STREET INVESTORS LLC AND BEVERLY GEMINI INVESTMENTS, LLC TO DEBTORS' TWENTY-SECOND OMNIBUS OBJECTION TO CLAIMS (DISALLOWANCE OF CERTAIN CLAIMS FILED AGAINST THE WRONG DEBTOR)*** was served upon the parties listed below via pre-paid overnight mail, U.S. mail and Express Mail.

Judge's Copy via Overnight Mail (Federal Express)

Honorable Kevin R. Huennekens
United States Bankruptcy Court
Eastern District – Richmond Division
701 East Broad Street,
Richmond, VA, 23219-1888

Via U.S. Mail

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Richmond, VA 23219
Assistant United States Trustee

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Douglas M. Foley, Esq.
McGuireWoods LLP
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Counsel for the Debtors

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Counsel for the Debtors

Via U.S. Mail (cont.)

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Counsel for the Debtors

Dated: July 7, 2009


Linda Greenstein